

In re the application of: Attorney Docket No.: 2965.906US03

Pratt, et al.

Application No.: 10/722,168

For: DOUBLE DIAPHRAGM PRECISION THROTTLING VALVE

Reissue of U.S. Patent No.: 6,321,776

Issued: November 27, 2001

1. Assignment of U.S. Patent No. 6,321,776, from inventors Wayne L. Pratt and William M. Kolarik to assignee NT International, Inc. A copy of the assignment, and receipts evidencing recordation of the same in the assignment records of the Office, are included herewith as Exhibits A and B, respectively.
2. Merger of NT International, Inc. with and into Entegris, Inc., a Minnesota corporation. A copy of the merger documents, and receipts evidencing recordation of the same in the assignment records of the Office, are included herewith as Exhibits C and D, respectively.

3. Merger of Entegris, Inc, a Minnesota corporation, with and into Eagle DE, Inc., a Delaware corporation, with the surviving corporation Eagle DE, Inc. adopting the corporate name Entegris, Inc. as of the effective date of the merger, August 5, 2005. A copy of the merger documents, and receipts evidencing recordation of the same in the assignment records of the Office, are included herewith as Exhibits **E** and **F**, respectively.

The undersigned is authorized to act on behalf of the current assignee, Entegris, Inc.



Peter W. Walcott  
Senior Vice President and General Counsel  
Entegris, Inc.

April 25, 2007

Date

# EXHIBIT A

## ASSIGNMENT

WHEREAS, Wayne L. Pratt, 16028 North 63<sup>rd</sup> Street, Scottsdale, AZ 85254 and William Michael Kolarik, 918 West Wagon Wheel Drive, Phoenix, AZ 85021, have invented certain new and useful improvements in DOUBLE DIAPHRAGM PRECISION THROTTLING VALVE, for which a Letters Patent of the United States has been issued under U.S. Patent No. 6,321,776, issued on November 27, 2001.

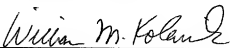
WHEREAS, NT International, Inc. ("Assignee"), a corporation organized and existing under the laws of the State of Minnesota, and having its principal offices at 5155 East River Road, Fridley, MN 55421-1025, is desirous of acquiring the entire right, title and interest in and to said Letters Patent.

NOW, THEREFORE, effective immediately, by this document, for good and valuable consideration, we do hereby sell, assign, and transfer to Assignee, its successors and assigns, the entire right, title and interest in and to said Letters Patent.

We agree to execute all papers and to perform such other proper acts as Assignee may deem necessary to secure to Assignee or to its designee the rights herein assigned.

Signed at this 16th day of January, 2003.

  
\_\_\_\_\_  
Wayne L. Pratt

  
\_\_\_\_\_  
William M. Kolarik

# EXHIBIT B

J:BRADLEY J. THORSON COMPASS:80 S. 8TH STREET, STE. 4F

**UNITED STATES PATENT AND TRADEMARK OFFICE**UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

APRIL 24, 2007

PTAS

**\*500264156A\***BRADLEY J. THORSON  
80 S. 8TH STREET, STE. 4800  
MINNEAPOLIS, MN 55402**\*500264156A\***UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 04/24/2007

REEL/FRAME: 019193/0704

NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).  
DOCKET NUMBER: 2965906US01

## ASSIGNOR:

PRATT, WAYNE L.

DOC DATE: 01/16/2003

## ASSIGNOR:

KOLARIK, WILLIAM M.

DOC DATE: 01/16/2003

## ASSIGNEE:

NT INTERNATIONAL, INC.  
5155 EAST RIVER ROAD  
FRIDLEY, MINNESOTA 55421

SERIAL NUMBER: 09556208

FILING DATE: 04/24/2000

PATENT NUMBER: 6321776

ISSUE DATE: 11/27/2001

TITLE: DOUBLE DIAPHRAGM PRECISION THROTTLING VALVE

D:BRADLEY J. THORSON COMPASS:80 S. 8TH STREET, STE. 4F

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4/27/07

# EXHIBIT C



ARTICLES OF MERGER OF  
NT INTERNATIONAL, INC. AND ENTEGRIS, INC.

The following Articles of Merger are being filed pursuant to Minnesota Statutes Section 302A.621, to reflect the merger of NT International, Inc., a Minnesota corporation ("Subsidiary"), with and into Entegris, Inc., a Minnesota corporation ("Parent"), for purposes of combining the two corporations.

1. Plan of Merger. A copy of the Plan of Merger is attached hereto as Exhibit A and incorporated herein by reference.

2. Outstanding Shares. The number of outstanding shares of stock of each class and series of Subsidiary's stock and the number of such shares of each class and series of Subsidiary's stock owned by Parent, directly or indirectly through related corporations, are as follows:

<u>Class</u>	<u>Total Shares Outstanding</u>	<u>% Owned by Parent</u>
Common	1,000	100%

3. Parent Approval. The Plan of Merger was approved by the affirmative vote of a majority of the members of the Board of Directors of Parent.

4. Effective Date. The merger is to be effective as of the close of business on July 2, 2005.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Merger on May 31, 2005.

PARENT:

Entegris, Inc.

By

Its

  
CHAIRMAN

Exhibit A

**PLAN OF MERGER**

**THIS AGREEMENT**, dated May 31, 2005, is entered into by and between Entegris, Inc., a Minnesota corporation with its principal office located at 3500 Lyman Boulevard, Chaska, Minnesota 55318 ("Parent"), and NT International, Inc., a Minnesota corporation with its registered office located at 3500 Lyman Boulevard, Chaska, Minnesota 55318 ("Subsidiary"). Parent and Subsidiary each shall be referred as a "constituent corporation" and collectively as the "constituent corporations."

**WHEREAS**, Parent currently owns 1,000 shares of common stock of Subsidiary, par value \$0.01 per share, which constitutes one hundred percent (100%) of the outstanding shares of stock of Subsidiary, and

**WHEREAS**, the constituent corporations intend to merge Subsidiary with and into Parent, with Parent being the surviving corporation, pursuant to Minnesota Statutes Section 302A.621, in order that the transaction qualify as a liquidation of Subsidiary pursuant to Section 332 of the Internal Revenue Code, as amended (the "Code").

**NOW THEREFORE**, in consideration of the mutual covenants, and subject to the terms and conditions set forth below, the parties hereby agree as follows:

1. **Surviving Corporation.** On the Effective Date (as hereinafter defined), Subsidiary shall merge with and into Parent pursuant to Minnesota Statutes Section 302A.621, the constituent corporations shall become a single entity, Parent shall be the surviving corporation, and the separate existence of Subsidiary shall cease.

2. **Conversion of Shares.** On the effective date of the merger, all the outstanding shares of stock of Subsidiary shall be surrendered and canceled. The shares of common stock of Parent, whether authorized or issued on the effective date of the merger, shall not be converted, exchanged, or otherwise affected as a result of the merger, and no new shares of stock shall be issued by reason of this merger.

3. **Assets and Liabilities.**

3.1 **Assets.** On the effective date of the merger, Parent shall possess all the assets, rights, privileges, immunities, and franchises of a public and private nature, of the constituent corporations, and shall be subject to all of the restrictions, disabilities and duties of Subsidiary. All property, real, personal and mixed, and all debts due on any account, and all other choses in action, and every other interest of or belonging to or due to Subsidiary shall be deemed to be transferred to and vested in Parent without any other further act or deed. Title to any property or any interest therein, vested in any of the constituent corporations shall not revert nor in any way become impaired by reason of the merger. Confirmatory deeds, assignments, or similar instruments to accomplish such vesting may be signed and delivered at any time in the name of a constituent corporation by its current officers, or if the corporation no longer exists, by its last officers.

3.2 Liabilities. On the effective date of the merger, Parent shall be deemed responsible and liable for all the liabilities and obligations of the constituent corporations. Any claims existing by or against Subsidiary may be prosecuted to judgment as if the merger had not taken place, or Parent may be substituted in place of Subsidiary. Neither the rights of creditors nor any liens upon the property of a constituent corporation are impaired by this merger. Subsidiary shall execute and deliver any and all documents which may be required for it to assume or otherwise comply with such outstanding obligations.

4. Articles of Incorporation of Surviving Corporation. The Articles of Incorporation of Parent currently in effect shall continue to be and remain its articles of incorporation following the effective date of the merger, until the same shall be altered or amended.

5. Bylaws of Surviving Corporation The Bylaws of Parent currently in effect shall continue to be and remain its Bylaws until the same shall be altered, amended, or repealed.

6. Directors and Officers of Surviving Corporation. The directors and officers of Parent in office on the effective date of the merger shall continue in office and shall constitute the directors and officers of Parent for the term elected until their respective successors shall be elected or appointed and qualified.

7. Expenses of Merger. Parent shall pay all the expenses of accomplishing the merger.

8. Subsequent Acts. If at any time Parent shall consider or be advised that any further assignment or assurances in law are necessary or desirable to vest or to perfect or confirm of record in Parent the title to any property or rights of Subsidiary or to otherwise carry out the provisions hereof, the proper officers and directors of Subsidiary as of the effective date of the merger shall execute and deliver any and all proper assignments and assurances in law, and do all things necessary or proper to vest, perfect, or confirm title to such property or rights in Parent and to otherwise carry out the provisions hereof.

9. Abandonment of Merger. At any time prior to the filing of the articles of merger with the Minnesota Secretary of State, the proposed merger may be abandoned by the constituent corporations pursuant to this provision.

10. Effective Date. The effective date of this merger shall be July 2, 2005.

*[Intentionally Left Blank]*

IN WITNESS WHEREOF, the undersigned have executed this plan of merger on the day and year first above written.

PARENT:

ENTEGRIS, INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

*Don Ayer*

CHAIRMAN

SUBSIDIARY:

NT INTERNATIONAL, INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

*John D. Villan*

Secretary / CFO

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED

JUN 30 2005

*Mary K. Hoffmann*  
Secretary of State

m

## EXHIBIT D

):BRADLEY J. THORSON COMPAN:80 S. 8TH STREET, STE. 4E

**UNITED STATES PATENT AND TRADEMARK OFFICE**UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

APRIL 24, 2007

PTAS

**\*500264118A\***BRADLEY J. THORSON  
80 S. 8TH STREET, STE. 4800  
MINNEAPOLIS, MN 55402~~\*500264118A\*~~UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENTTHE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF  
THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS  
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RECORDATION DATE: 04/24/2007

REEL/FRAME: 019193/0671

NUMBER OF PAGES: 6

BRIEF: MERGER (SEE DOCUMENT FOR DETAILS).

DOCKET NUMBER: 2965906US01

## ASSIGNOR:

NT INTERNATIONAL, INC.

DOC DATE: 05/31/2005

## ASSIGNEE:

ENTEGRIS, INC. (A MINNESOTA  
CORPORATION)  
3500 LYMAN BOULEVARD  
CHASKA, MINNESOTA 55402

SERIAL NUMBER: 09556208

FILING DATE: 04/24/2000

PATENT NUMBER: 6321776

ISSUE DATE: 11/27/2001

TITLE: DOUBLE DIAPHRAGM PRECISION THROTTLING VALVE

0:BRADLEY J. THORSON COMPANIES, INC.; 80 S. 8TH STREET, STE. 400

019193/0671 PAGE 2

ASSIGNMENT SERVICES BRANCH  
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# EXHIBIT E



State of Minnesota

**SECRETARY OF STATE**

*Certificate of Merger*

*I, Mary Kiffmeyer, Secretary of State of Minnesota, certify that: the documents required to effectuate a merger between the entities listed below and designating the surviving entity have been filed in this office on the date noted on this certificate.*

*Merger Filed Pursuant to Minnesota Statutes, Chapter: 302A*

*State of Formation and Names of Merging Entities:*

**MN: ENTEGRIS, INC.  
DE: EAGLE DE, INC.**

*State of Formation and Name of Surviving Entity:*

**DE: EAGLE DE, INC.**

*Effective Date of Merger: August 5, 2005 11:01 p.m. CDT*

*Name of Surviving Entity After Effective Date of Merger:*

**ENTEGRIS, INC.**

*This certificate has been issued on: August 5, 2005*



*Mary Kiffmeyer*  
Secretary of State.

10R-971

DC M



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ARTICLES OF MERGER

OF

ENTEGRIS, INC., a Minnesota Corporation

WITH AND INTO

EAGLE DE, INC., a Delaware Corporation

These Articles of Merger relate to the merger (the "Merger") of Entegris, Inc., a Minnesota corporation ("Entegris"), with and into Eagle DE, Inc., a Delaware corporation ("Eagle DE").

(a) The Agreement and Plan of Merger, entered into as of March 21, 2005, by and between Entegris and Eagle DE, as amended by that certain First Amendment to Agreement and Plan of Merger, entered into as of May 4, 2005, by and between Entegris and Eagle DE (collectively, the "Agreement and Plan of Merger"), each in fully executed form, are attached hereto as Exhibit A. As provided in the Agreement and Plan of Merger, Eagle DE shall continue as the surviving corporation under the corporate name Entegris, Inc.

(b) The Merger is permitted by the laws of the State of Delaware, the jurisdiction under which Eagle DE is organized, and the Agreement and Plan of Merger was adopted and approved by Eagle DE in accordance with the General Corporation Law of the State of Delaware.

(c) The Agreement and Plan of Merger has been approved by Entegris pursuant to Chapter 302A of the Minnesota Statutes.

(d) The Merger shall be effective at 11:01 p.m., Central Daylight Time, on August 5, 2005.

(e) Eagle DE, the surviving corporation following the Merger, hereby agrees:

(1) that, as the surviving corporation following the Merger, it may be served with process in the State of Minnesota in any proceeding for the enforcement of any obligation of Entegris or Eagle DE and in a proceeding for the enforcement of the rights, if any, of a dissenting shareholder of Entegris against Eagle DE;

(2) that it hereby irrevocably appoints, effective at the effective time of the Merger, the Secretary of State of Minnesota as its agent to accept service of process in any such proceeding and the address to which process may be forwarded is Entegris, Inc. (f/k/a Eagle DE, Inc.), 3500 Lyman Boulevard, Chaska, Minnesota 55318; and

(3) that it will promptly pay to the dissenting shareholders of Entegris the amounts, if any, to which they are entitled to under the provisions of Section 302A.473 of the Minnesota Business Corporation Act with respect to the rights of dissenting shareholders; provided, that as stated in Article XI of the Agreement and Plan of Merger, no shareholders of Entegris are entitled to dissenters' rights under the Minnesota Business Corporation Act as a result of the Merger.

[Remainder of page left blank intentionally; signature page follows]

Dated: August 5, 2005.

Entegris, Inc.

By: 

Name: James E. Dauwalter

Title: Chief Executive Officer

Eagle DE, Inc.

By: 

Name: John D. Villas

Title: Chief Financial Officer

M1:1225081.03

EXHIBIT A

Agreement and Plan of Merger

See attached.

## **AGREEMENT AND PLAN OF MERGER**

**by and between  
ENTEGRIS, INC.  
(a Minnesota corporation)  
and  
EAGLE DE, INC.  
(a Delaware corporation)**

This Agreement and Plan of Merger (the "Plan of Merger") is made and entered into as of March 21, 2005, by and between Entegris, Inc., a Minnesota corporation ("Entegris") and Eagle DE, Inc., a Delaware corporation ("Eagle Delaware") (individually a "Constituent Corporation" and collectively the "Constituent Corporations").

### **WITNESSETH:**

WHEREAS, Entegris is a corporation duly organized and existing under the laws of the State of Minnesota;

WHEREAS, Eagle Delaware is a corporation duly organized and existing under the laws of the State of Delaware;

WHEREAS, the respective boards of directors of Entegris and Eagle Delaware have determined that, for the purpose of effecting the reincorporation of Entegris in the State of Delaware, it is advisable and in the best interests of Entegris and Eagle Delaware and their respective shareholders that Entegris merge with and into Eagle Delaware on the terms and conditions herein provided; and

WHEREAS, the respective boards of directors of Entegris and Eagle Delaware have adopted and approved this Plan of Merger and have directed that this Plan of Merger be submitted to a vote of their shareholders and sole shareholder respectively;

WHEREAS, the Reincorporation Merger, as hereinafter defined, is intended to be treated as a reincorporation under section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended (the "Code"), for U.S. federal income tax purposes, the Plan of Merger is hereby adopted as a plan of reorganization within the meaning of section 368 of the Code, and Eagle Delaware has conducted no business activities since its formation and was organized solely for the purpose of effecting the reincorporation of Entegris in Delaware.

NOW, THEREFORE, in consideration of the mutual agreements and covenants set forth herein, Entegris and Eagle Delaware hereby agree as follows:

## FIRST AMENDMENT TO AGREEMENT AND PLAN OF MERGER

THIS FIRST AMENDMENT TO AGREEMENT AND PLAN OF MERGER (this "Amendment") is entered into as of the 4<sup>th</sup> day of May, 2005, by and between Entegris, Inc., a Minnesota corporation ("Entegris"), and Eagle DE, Inc., a Delaware corporation ("Eagle Delaware").

WHEREAS, Entegris and Eagle Delaware entered into that certain Agreement and Plan of Merger dated as March 21, 2005 (the "Agreement"); and

WHEREAS, Entegris and Eagle Delaware desire to amend the Agreement;

NOW, THEREFORE, in consideration of the mutual agreements and covenants set forth herein and in the Agreement, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party), Entegris and Eagle Delaware hereby agree as follows:

1. Unless otherwise defined herein, each capitalized term used herein shall have the meaning (if any) provided therefor in the Agreement.
2. Article V of the Agreement is hereby amended by (a) replacing each use of the word "Eagle" in the first sentence thereof with the word "Entegris" and (b) replacing the reference to "Eagle Delaware" in the second sentence thereof with a reference to "the Reincorporation Merger Surviving Corporation".
3. Except as amended by the foregoing, the Agreement and each provision thereof shall remain in full force and effect.
4. Each reference to the Agreement in any document or instrument delivered pursuant to or in connection with the Agreement shall be deemed to be a reference to the Agreement, as amended by this Amendment.
5. This Amendment may be executed by facsimile and in one or more counterparts, all of which shall be considered one and the same instrument, binding on each party, notwithstanding that each party is not a signatory to the same counterpart.

[Remainder of page left blank intentionally; signature page follows]

IN WITNESS WHEREOF, this Amendment is hereby executed on behalf of each of Entegris and Eagle Delaware by their respective officers thereunto duly authorized as of the date first above written.

ENTEGRIS, INC.,  
a Minnesota corporation

By: 

Its: Chief Executive Officer

EAGLE DE, INC.,  
a Delaware corporation

By: 

Its: Chief Executive Officer

MI:1207515.04

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED

AUG 05 2005

  
Secretary of State



**STATE OF MINNESOTA**

**DEPARTMENT OF STATE**

I hereby certify that this is a  
true and complete copy of the  
document as filed for record in  
this office.

DATED 8/18/05

Marg. Kiffmeyer

Secretary of State



By

Lisa Vang

**ARTICLE I**  
**AGREEMENT AND PLAN OF MERGER**

1.1 Plan Adopted. This Plan of Merger of each of the Constituent Corporations pursuant to the provisions of Section 252 of the Delaware General Corporation Law and Sections 302A.611, 302A.613 and 302A.615 of the Minnesota Business Corporation Act is adopted as follows:

(1) At the Effective Time, as hereinafter defined, Entegris shall be merged with and into Eagle Delaware (the "Reincorporation Merger").

(2) The surviving corporation of the Reincorporation Merger (the "Reincorporation Merger Surviving Corporation") shall be Eagle Delaware and the name of Eagle Delaware shall be "Entegris, Inc."

(3) At the Effective Time, the separate existence of Entegris shall cease and the Reincorporation Merger shall have the other effects set forth in the provisions of the Delaware General Corporation Law and the Minnesota Business Corporation Act.

(4) At the Effective Time, by virtue of the Reincorporation Merger and without any action on the part of the holders thereof, each share of common stock of Entegris, par value \$.01 per share ("Entegris Common Stock"), the only authorized class of capital stock of Entegris, shall be automatically converted into one share of common stock, par value \$.01 per share, of the Reincorporation Merger Surviving Corporation ("Surviving Corporation Common Stock").

(5) At the Effective Time, by virtue of the Reincorporation Merger and without any action on the part of the holder thereof, each share of common stock of Eagle Delaware, par value \$.01 per share ("Eagle Delaware Common Stock"), outstanding and owned by Entegris, constituting the only Eagle Delaware capital stock outstanding immediately prior to the Effective Time, or held by Eagle Delaware as treasury shares, shall be cancelled and shall cease to exist, and no stock, cash or other property shall be issued in respect thereof.

1.2 Effective Time. Following (i) the requisite approval of this Plan of Merger and the Reincorporation Merger by the shareholders of Entegris and the stockholder of Eagle Delaware, (ii) the execution and filing with the Secretary of State of Delaware of a Certificate of Merger pursuant to Section 252 of the Delaware General Corporation Law and (iii) the execution and filing with the Secretary of State of Minnesota of Articles of Merger pursuant to Section 302A.615 of the Minnesota Business Corporation Act, the Reincorporation Merger shall become effective in Delaware upon the filing of such Certificate of Merger with the Secretary of State of Delaware and in Minnesota upon the filing of such Articles of Merger with the Secretary of State of Minnesota (the "Effective Time").

1.3 No Appraisal or Dissenters Rights. In accordance with the provisions of Section 262 of the Delaware General Corporation Law and Section 302A.471 of the Minnesota Business Corporation Act, no holder of shares of Entegris Common Stock or Eagle Delaware Common Stock shall have any appraisal or dissenters rights as a result of the execution and delivery of this Plan of Merger or the consummation of the Reincorporation Merger.

## ARTICLE II EXCHANGE OF SHARES

2.1 Entegris Stock Certificates. At or after the Effective Time, each holder of shares of Entegris Common Stock immediately prior to the Effective Time, upon surrender to the Reincorporation Merger Surviving Corporation of the certificates which, prior to the Effective Time, evidenced outstanding shares of Entegris Common Stock, shall be entitled to receive in exchange therefor a certificate or certificates representing the number of shares of Surviving Corporation Common Stock into which such shares of Entegris Common Stock shall have been converted as provided in Section 1.1(4). Nothing stated herein shall require a holder of a certificate which represented a share of Entegris Common Stock immediately prior to the Effective Time to surrender such certificate. After the Effective Time, and until so surrendered, each such outstanding certificate for such shares of Entegris Common Stock that have been converted into shares of Surviving Corporation Common Stock in accordance with this Plan of Merger will be deemed for all corporate purposes of the Reincorporation Merger Surviving Corporation to evidence ownership of, and represent, the number of shares of Surviving Corporation Common Stock into which such shares of Entegris Common Stock were converted at the Effective Time. The registered owner on the books and records of the transfer agent of Eagle Delaware of any such outstanding certificate for shares of Entegris Common Stock shall, until such certificate shall have been surrendered for transfer, have and be entitled to all rights of a holder of Surviving Corporation Common Stock with respect to each share represented by such certificate, including all voting rights and rights to dividends and other distributions upon the shares of the Reincorporation Merger Surviving Corporation represented by such outstanding certificate. The Reincorporation Merger Surviving Corporation shall not be obligated to issue new certificates evidencing such shares of its capital stock unless and until the old certificates formerly representing shares of Entegris Common Stock are either delivered to the Reincorporation Merger Surviving Corporation, or in any particular case the registered holder thereof notifies the Reincorporation Merger Surviving Corporation that such certificates have been lost, stolen, or destroyed and complies with the provisions of Article IX of this Plan of Merger.

2.2 Eagle Delaware Stock Certificates. At or after the Effective Time, Entegris shall surrender the certificates which, prior to the Effective Time, evidenced the outstanding shares of Eagle Delaware Common Stock to the Reincorporation Merger Surviving Corporation for cancellation and no stock, cash or other property shall be issued in respect thereof. After the Effective Time, and until so surrendered, no outstanding certificate for such shares of Eagle Delaware Common Stock outstanding prior to the Reincorporation Merger shall be deemed for any corporate purpose to represent any interest in Eagle Delaware or the Reincorporation Merger Surviving Corporation or to entitle the holder thereof to any stock, cash or other property.

## ARTICLE III CERTIFICATE OF INCORPORATION AND BYLAWS

At the Effective Time, the Certificate of Incorporation and Bylaws of Eagle Delaware, as in effect immediately prior to the Effective Time, shall be the Certificate of Incorporation and Bylaws of the Reincorporation Merger Surviving Corporation. The parties

agree that, and agree to take all action in order that, immediately prior to the Effective Time, the Certificate of Incorporation and Bylaws of Eagle Delaware shall be in the forms attached hereto as Exhibits A-1 and A-2, respectively, unless and to the extent the parties agree to changes therein (in which case the parties agree to cause the Certificate of Incorporation and Bylaws of Eagle Delaware to be in such forms, with such changes as are agreed upon by the parties, immediately prior to the Effective Time), provided, however, if any provision of such Certificate of Incorporation and Bylaws (i) is required to be submitted separately to the shareholders of Entegris for approval by such shareholders at the time of their approval of the Reincorporation Merger and (ii) does not receive the approval of the Entegris shareholders, then the Certificate of Incorporation and the Bylaws of Eagle Delaware as in effect immediately prior to the Effective Time shall not include such provisions.

#### ARTICLE IV DIRECTORS AND OFFICERS

4.1 Directors. From and after the Effective Time, the Directors of Eagle Delaware shall be the directors of the Reincorporation Merger Surviving Corporation, each to hold office until his or her successor is duly elected and qualified or until his or her earlier death, resignation or removal.

4.2 Officers. From and after the Effective Time, the officers of Entegris shall be officers of the Reincorporation Merger Surviving Corporation, each to hold office until his or her successor is duly elected and qualified or until his or her earlier death, resignation or removal.

#### ARTICLE V STOCK OPTIONS, ETC.

At the Effective Time, each outstanding option to purchase shares of Eagle Common Stock and each restricted stock unit that may be surrendered for Eagle Common Stock that has been granted under any employee stock option or compensation plan of, or other arrangement with, Eagle shall become an option or restricted stock unit, as the case may be, for the same number of shares of Surviving Corporation Common Stock as the number of shares of Eagle Common Stock for which, immediately prior to the Effective Time, it was exercisable or could be surrendered, subject to the same vesting schedule, forfeiture provisions and exercise price, as applicable, in effect immediately before the Effective Time. Restricted stock of Entegris that is converted into restricted stock of Eagle Delaware as a result of the Reincorporation Merger shall be subject to the same vesting schedule and forfeiture provisions, as applicable, in effect immediately before the Effective Time.

#### ARTICLE VI AMENDMENT

The Boards of Directors of the Constituent Corporations may amend this Plan of Merger, by an instrument in writing signed on behalf of each Constituent Corporation, at any time prior to the Effective Time, whether before or after approval by the shareholders of Entegris and the stockholder of Eagle Delaware, provided that after the shareholders or stockholder

approval of a Constituent Corporation is obtained, there shall be no further amendment that by law or the rules of the NASDAQ National Market requires further approval by the shareholders or stockholder of that Constituent Corporation without the further approval of those shareholders or stockholder.

#### **ARTICLE VII TERMINATION**

To the extent permitted by law, this Plan of Merger may be terminated, and the Reincorporation Merger herein provided for may be abandoned, by mutual consent of the Boards of Directors of the Constituent Corporations at any time prior to the Effective Time. The Boards of Directors of the Constituent Corporations shall terminate this Plan of Merger at such time, if any, as the Agreement and Plan of Merger among Entegris, Eagle Delaware and Mongoose, dated as of the date of this Plan of Merger, is terminated. Except as otherwise provided in this Article VII, the Reincorporation Merger shall be submitted to the shareholders of Entegris and the stockholder of Eagle Delaware whether or not the Board of Directors of either Constituent Corporation recommends that the shareholders or stockholder of that Constituent Corporation reject it.

#### **ARTICLE VIII FURTHER ASSURANCES**

If at any time the Reincorporation Merger Surviving Corporation shall consider or be advised that any further assignments or assurances in law or any other acts are necessary or desirable to vest in the Reincorporation Merger Surviving Corporation, according to the terms hereof, the title to any property or right of either Constituent Corporation, the proper officers and directors of either Constituent Corporation shall and will execute and make all such proper assignments and assurances and do all things necessary to vest title in such property or rights in the Reincorporation Merger Surviving Corporation, and otherwise to carry out the purposes of this Agreement.

#### **ARTICLE IX LOST OR STOLEN CERTIFICATES**

In the case of any lost, stolen, or destroyed certificate formerly representing shares of Entegris Common Stock, the holder thereof may be required, as a condition precedent to the delivery to the holder of certificates for the same number of shares of Surviving Corporation Common Stock, to deliver to the Reincorporation Merger Surviving Corporation a written indemnity agreement in form and substance reasonably acceptable to the Reincorporation Merger Surviving Corporation and, if reasonably deemed advisable by the Reincorporation Merger Surviving Corporation, a bond in such reasonable sum as the Reincorporation Merger Surviving Corporation may direct as indemnity against any claim that may be made against any transfer or exchange agent, Entegris or the Reincorporation Merger Surviving Corporation or any of their respective officers, directors, agents or affiliates with respect to the certificate formerly representing shares of Entegris Common Stock alleged to have been lost, stolen, or destroyed.

**ARTICLE X  
NO FURTHER TRANSFERS**

As of the Effective Time, there shall be no transfers on the stock transfer books of Entegris of the shares of Entegris Common Stock that were outstanding immediately before the Effective Time. Notwithstanding the foregoing, after the Effective Time, if certificates formerly representing shares of Entegris Common Stock are presented to Eagle Delaware for transfer, they shall be canceled and exchanged for the same number of shares of Eagle Delaware Common Stock as provided in Articles I and II. After the Effective Time, the Reincorporation Merger Surviving Corporation shall cause the shares of Entegris Common Stock to be delisted from NASDAQ and at or prior to the Effective Time, Eagle Delaware shall take such action as is necessary to cause Eagle Delaware to be treated as a "successor issuer" to Entegris within the meaning of Rule 12g-3 under the Securities Exchange Act of 1934 (the "Exchange Act"), as amended, and shall cause the shares of Eagle Delaware Common Stock to be registered under Section 12(g) of the Exchange Act and be authorized for quotation on NASDAQ under the same trading symbol as had previously represented shares of Entegris Common Stock.

**ARTICLE XI  
QUALIFICATION OF REINCORPORATION MERGER SURVIVING CORPORATION  
IN MINNESOTA**

Eagle Delaware hereby agrees, and shall provide in the Articles of Merger filed with the Secretary of State of Minnesota, (1) that, as the Reincorporation Merger Surviving Corporation, it may be served with process in the State of Minnesota in any proceeding for the enforcement of any obligation of Entegris and in a proceeding for the enforcement of the rights, if any, of a dissenting shareholder of Entegris against the Reincorporation Merger Surviving Corporation, and (2) that it hereby appoints, effective at the Effective Time, the Secretary of State of Minnesota as its agent to accept service of process in any such proceeding, and (3) that it will promptly pay to the dissenting shareholders of Entegris the amounts, if any, to which they are entitled under the provisions of the Minnesota Business Corporation Act with respect to the rights of dissenting shareholders. Notwithstanding anything to the contrary herein stated, the parties to this Agreement agree that, as stated in Section 1.3, no shareholders of Entegris are entitled to dissenters rights pursuant to the Minnesota Business Corporation Act or otherwise as a result of this Plan of Merger or the Reincorporation Merger.

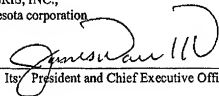
**ARTICLE XII  
GOVERNING LAW**

This Plan of Merger shall be governed by the internal laws of the State of Delaware without giving effect to choice-of-law principles.

IN WITNESS WHEREOF, this Plan of Merger, having first been duly approved by the respective Boards of Directors of each Constituent Corporation, is hereby executed on behalf of each of said corporations by their respective officers thereunto duly authorized as of the date above written.

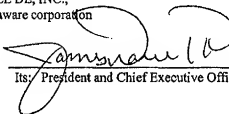
ENTEGRIS, INC.,  
a Minnesota corporation

By:

  
Its: President and Chief Executive Officer

EAGLE DE, INC.,  
a Delaware corporation

By:

  
Its: President and Chief Executive Officer

**EAGLE DE, INC.**  
**CERTIFICATE OF INCORPORATION**

**ARTICLE I**

The name of this corporation is Entegris, Inc. (hereinafter referred to as the "Corporation").

**ARTICLE II**

The registered office of this Corporation in the State of Delaware is located at Corporation Trust Center, 1209 Orange Street, in the City of Wilmington (19801), County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

**ARTICLE III**

The purpose of this Corporation is to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law.

**ARTICLE IV**

A. The total number of shares of all classes of stock which the Corporation shall have authority to issue is 405,000,000 shares, consisting of (i) 400,000,000 shares of Common Stock, \$.01 par value per share ("Common Stock"), and (ii) 5,000,000 shares of Preferred Stock, \$.01 par value per share ("Preferred Stock").

B. The board of directors is authorized, subject to any limitations prescribed by law, to provide for the issuance of shares of Preferred Stock in series, and by filing a certificate pursuant to the applicable law of the State of Delaware (such certificate being hereinafter referred to as a "Preferred Stock Designation"), to establish from time to time the



number of shares to be included in each such series, and to fix the designation, powers, preferences, and rights of the shares of each such series and any qualifications, limitations or restrictions thereof. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the Common Stock, without a vote of the holders of the Preferred Stock, or of any series thereof, unless a vote of any such holders is required pursuant to the terms of any Preferred Stock Designation.

#### ARTICLE V

Unless and except to the extent that the By-Laws of this Corporation shall so require, the election of directors need not be by written ballot.

#### ARTICLE VI

In furtherance of and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to adopt, amend or repeal the By-Laws of this Corporation, subject to the right of the stockholders entitled to vote with respect thereto to alter and repeal the By-Laws adopted or amended by the Board of Directors; provided, however, that, notwithstanding the fact that a lesser percentage may be specified by law, the By-Laws shall not be altered, amended or repealed by the stockholders of the Corporation except by the affirmative vote of holders of not less than seventy-five percent (75%) of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors. Notwithstanding any other provisions of law, this Certificate of Incorporation or the By-Laws, each as amended, and notwithstanding the fact that a lesser percentage may be specified by law, this Certificate of Incorporation or the By-Laws of the Corporation, the affirmative vote of seventy-five percent (75%) of the then outstanding shares of capital stock of the Corporation

entitled to vote generally in the election of directors shall be required to amend or repeal, or to adopt any provisions inconsistent with the purpose or intent of, this Article VI.

#### ARTICLE VII

Except to the extent that the Delaware General Corporation Law prohibits the elimination or limitation of liability of directors for breaches of fiduciary duty, no director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for any breach of fiduciary duty as a director, notwithstanding any provision of law imposing such liability. No amendment to or repeal of this provision shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment.

#### ARTICLE VIII

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute and this Certificate of Incorporation, and all rights conferred upon stockholders herein are granted subject to this reservation.

#### ARTICLE IX

This Article is inserted for the management of the business and for the conduct of the affairs of the Corporation.

1. Number of Directors. The number of directors of the Corporation shall not be less than three. The exact number of directors within the limitations specified in the preceding sentence shall be fixed from time to time by, or in the manner provided in, the By-Laws of the Corporation.

2. Classes of Directors. The Board of Directors shall be and is divided into three classes: Class I, Class II and Class III. No one class shall have more than one director more than any other class.

3. Terms of Office. Except as provided in Section 4 of this Article IX, each director shall serve for a term ending on the date of the third annual meeting following the annual meeting at which such director was elected; provided, however, that each initial director in Class I shall serve for a term ending on the date of the Corporation's first annual meeting of stockholders; each initial director in Class II shall serve for a term ending on the date of the Corporation's second annual meeting of stockholders; and each initial director in Class III shall serve for a term ending on the date of the Corporation's third annual meeting of stockholders; and provided, further, that the term of each director shall be subject to the election and qualification of his or her successor and to his or her earlier death, resignation or removal.

4. Removal. The directors of the Corporation may not be removed without cause and may be removed for cause only by the affirmative vote of the holders of at least seventy-five percent (75%) of the shares of the capital stock of the Corporation issued and outstanding and entitled to vote generally in the election of directors cast at a meeting of the stockholders called for that purpose, notwithstanding the fact that a lesser percentage may be specified by law.

5. Vacancies. Any vacancy in the Board of Directors, however occurring, including a vacancy resulting from an enlargement of the Board, shall be filled only by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director. A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office, and a director chosen to fill a position resulting from an increase in the number of directors shall hold office until the next election of the class for which such director shall have been chosen,

subject to the election and qualification of his or her successor and to his or her earlier death, resignation or removal.

6. Stockholder Nominations and Introduction of Business, Etc. Advance notice of stockholder nominations for election of directors and other business to be brought by stockholders before either an annual or special meeting of stockholders shall be given in the manner provided by the By-Laws of this Corporation.

7. Amendment to Article. Notwithstanding any other provisions of law, this Certificate of Incorporation or the By-Laws, each as amended, and notwithstanding the fact that a lesser percentage may be specified by law, this Certificate of Incorporation or the By-Laws of the Corporation, the affirmative vote of at least seventy-five percent (75%) of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors shall be required to amend or repeal, or to adopt any provisions inconsistent with the purpose or intent of, this Article IX.

#### ARTICLE X

1. Dividends. The Board of Directors shall have authority from time to time to set apart out of any assets of the Corporation otherwise available for dividends a reserve or reserves as working capital or for any other purpose or purposes, and to abolish or add to any such reserve or reserves from time to time as said board may deem to be in the interest of the Corporation; and said Board shall likewise have power to determine in its discretion, except as herein otherwise provided, what part of the assets of the Corporation available for dividends in excess of such reserve or reserves shall be declared in dividends and paid to the stockholders of the Corporation.

2. Location of Meetings, Books and Records. Except as otherwise provided in the By-laws, the stockholders of the Corporation and the Board of Directors may hold their meetings and have an office or offices outside of the State of Delaware and, subject to the provisions of the laws of said State, may keep the books of the Corporation outside of said State at such places as may, from time to time, be designated by the Board of Directors or by the By-laws of this Corporation.

#### ARTICLE XI

Stockholders of the Corporation may not take any action by written consent in lieu of a meeting. Notwithstanding any other provisions of law, this Certificate of Incorporation or the By-Laws, each as amended, and notwithstanding the fact that a lesser percentage may be specified by law, this Certificate of Incorporation or the By-Laws of the Corporation, the affirmative vote of seventy-five percent (75%) of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors shall be required to amend or repeal, or to adopt any provisions inconsistent with the purpose or intent of, this Article XI.

#### ARTICLE XII

Special meetings of stockholders may be called at any time by only the Chairman of the Board of Directors, the Chief Executive Officer (or if there is no Chief Executive Officer, the President), or by the Board of Directors of the Corporation pursuant to a resolution adopted by the affirmative vote of a majority of the total number of directors then in office. Any business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting. Notwithstanding any other provisions of law, this Certificate of Incorporation or the By-Laws, each as amended, and notwithstanding the fact that a lesser percentage may be specified by law, this Certificate of Incorporation or the By-

Laws of the Corporation, the affirmative vote of seventy-five percent (75%) of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors shall be required to amend or repeal, or to adopt any provisions inconsistent with the purpose or intent of, this Article XII.

#### **ARTICLE XIII**

The Corporation expressly elects to be governed by Section 203 of the Delaware General Corporation Law.

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**EXHIBIT A-2**

**ENTEGRIS, INC. (FORMERLY KNOWN AS EAGLE DE, INC.)**

**BY-LAWS**

**ARTICLE 1 – OFFICES**

1.1 Registered Offices. The registered office of Entegris, Inc. (the "Corporation") in the State of Delaware shall be located at Corporation Trust Center, 1209 Orange Street, in the City of Wilmington (19801), County of New Castle. The name of the Corporation's registered agent at such address shall be The Corporation Trust Company. The registered office and/or registered agent of the Corporation may be changed from time to time by action of the Board of Directors.

1.2 Other offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

1.3 Books. The books of the Corporation may be kept within or without of the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

**ARTICLE 2 – STOCKHOLDERS**

2.1 Place of Meetings. All meetings of stockholders shall be held at such place within or without the State of Delaware as may be designated from time to time by the Board of Directors or the Chief Executive Officer (or, if there is no Chief Executive Officer, the President).

2.2 Annual Meeting. The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting shall be held on such date and at such time as shall be fixed by the Board of Directors, pursuant

to a resolution adopted by the affirmative vote of a majority of the total number of directors then in office, or by the Chief Executive Officer (or, if there is no Chief Executive Officer, the President) and stated in the notice of the meeting. If no annual meeting is held in accordance with the foregoing provisions, the Board of Directors shall cause the meeting to be held as soon thereafter as convenient.

2.3 Special Meeting. Special meetings of stockholders may be called at any time by only the Chairman of the Board of Directors, the Chief Executive Officer (or, if there is no Chief Executive Officer, the President) or by the Board of Directors of the Corporation pursuant to a resolution adopted by the affirmative vote of a majority of the total number of directors then in office. Any business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

2.4 Notice of Meetings. Except as otherwise provided by law, written notice of each meeting of stockholders, whether annual or special, shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting. The notices of all meetings shall state the place, date and hour of the meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his or her address as it appears on the records of the Corporation.

2.5 Voting List. The officer who has charge of the stock ledger of the Corporation shall prepare, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the



meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, at the principal place of business of the Corporation. The list shall also be produced and kept at the time and place of the meeting during the whole time of the meeting, and may be inspected by any stockholder who is present.

2.6 Quorum. Except as otherwise provided by law, the Certificate of Incorporation or these By-Laws, the holders of a majority of the shares of the capital stock of the Corporation issued and outstanding and entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum for the transaction of business.

2.7 Adjournments. Any meeting of stockholders may be adjourned to any other time and to any other place at which a meeting of stockholders may be held under these By-Laws by a majority of the stockholders present or represented at the meeting and entitled to vote, although less than a quorum, or, if no stockholder is present, by any officer entitled to preside at or to act as Secretary of such meeting. It shall not be necessary to notify any stockholder of any adjournment of less than thirty (30) days if the time and place of the adjourned meeting are announced at the meeting at which adjournment is taken, unless after the adjournment a new record date is fixed for the adjourned meeting. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting.

2.8 Voting and Proxies. Except as otherwise provided by the Delaware General Corporation Law, the Certificate of Incorporation or these By-Laws, each stockholder shall have one vote for each share of capital stock entitled to vote and held of record by such stockholder. To the extent permitted by law, each stockholder of record entitled to vote at a meeting of stockholders may vote in person or may authorize another person or persons to vote or act for him or her by proxy, which proxy may be authorized in writing, telegram, cablegram or other

means of electronic transmission by the stockholder or his or her authorized agent. No such proxy shall be voted or acted upon after three years from the date of its execution, unless the proxy expressly provides for a longer period.

2.9 Proxy Representation. Every stockholder may authorize another person or persons to act for him or her by proxy in all matters in which a stockholder is entitled to participate, whether by waiving notice of any meeting, objecting to or voting or participating at a meeting, or expressing consent or dissent without a meeting. No proxy shall be voted or acted upon after three years from its date unless such proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and, if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally.

2.10 Action at Meeting. When a quorum is present at any meeting, a plurality of the votes properly cast for election to any office shall elect to such office and a majority of the votes properly cast upon any question other than an election to an office shall decide the question, except when a larger vote is required by law, by the Certificate of Incorporation or by these By-laws. No ballot shall be required for any election unless requested by a stockholder present or represented at the meeting and entitled to vote in the election.

2.11 Nomination of Directors. Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors. The nomination for election to the Board of Directors of the Corporation at a meeting of stockholders may be made by the Board of Directors or by any stockholder of the Corporation entitled to vote for the election of directors at such meeting who complies with the notice procedures set forth in this Section 2.11.

Such nominations, other than those made by or on behalf of the Board of Directors, shall be made by notice in writing delivered or mailed by first class United States mail, postage prepaid, to the Secretary, and received at the principal executive offices of the Corporation not less than sixty (60) days nor more than ninety (90) days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that if the annual meeting is not held within thirty (30) days before or after such anniversary date, then such nomination shall have been delivered to or mailed and received by the Secretary not later than the close of business on the 10th day following the date on which the notice of the meeting was mailed or such public disclosure was made, whichever occurs first. Such notice shall set forth (a) as to each proposed nominee (i) the name, age, business address and, if known, residence address of each such nominee, (ii) the principal occupation or employment of each such nominee, (iii) the number of shares of stock of the Corporation which are beneficially owned by each such nominee, and (iv) any other information concerning the nominee that must be disclosed as to nominees in proxy solicitations pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended, including such person's written consent to be named as a nominee and to serve as a director if elected; and (b) as to the stockholder giving the notice (i) the name and address, as they appear on the Corporation's books, of such stockholder and (ii) the class and number of shares of the Corporation which are beneficially owned by such stockholder. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as a director of the Corporation.

2.12 Notice of Business at Annual Meetings. The chairman of the meeting may, if the facts warrant, determine and declare to the meeting that a nomination was not made in

accordance with the foregoing procedure, and if he or she should so determine, he or she shall so declare to the meeting and the defective nomination shall be disregarded.

2.13 Notice of Business at Annual Meetings. At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (b) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (c) otherwise properly brought before an annual meeting by a stockholder. For business to be properly brought before an annual meeting by a stockholder, if such business relates to the election of directors of the Corporation, the procedures in Section 2.11 must be complied with. If such business relates to any other matter, the stockholder must have given timely notice thereof in writing to the Secretary. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation not less than sixty (60) days nor more than ninety (90) days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that if the annual meeting is not held within thirty (30) days before or after such anniversary date, then for the notice by the stockholder to be timely it must be so received not later than the close of business on the 10th day following the date on which the notice of the meeting was mailed or such public disclosure was made, whichever occurs first. A stockholder's notice to the Secretary shall set forth as to each matter the stockholder proposes to bring before the annual meeting (a) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (b) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business, (c) the class and number of

shares of the Corporation which are beneficially owned by the stockholder and (d) any material interest of the stockholder in such business. Notwithstanding anything in these By-Laws to the contrary, no business shall be conducted at any annual meeting except in accordance with the procedures set forth in this Section 2.13, except that any stockholder proposal which complies with Rule 14a-8 or any successor provision or Regulation 14A promulgated under the Securities Exchange Act of 1934, as amended, and is to be included in the Corporation's proxy statement for an annual meeting of stockholders shall be deemed to comply with the requirements of this Section 2.13.

The chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting in accordance with the provisions of this Section 2.13, and if he or she should so determine, the chairman shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

2.14 Action without Meeting. Stockholders may not take any action by written consent in lieu of a meeting.

2.15 Organization. The Chairman of the Board, or in his or her absence the President shall call meetings of the stockholders to order, and act as chairman of such meeting; provided, however, that the Board of Directors may appoint any person to act as chairman of any meeting in the absence of the Chairman of the Board. The Secretary of the Corporation shall act as secretary at all meetings of the stockholders; provided, however, that in the absence of the Secretary at any meeting of the stockholders, the acting chairman may appoint any person to act as secretary of the meeting.

### ARTICLE 3 – DIRECTORS

3.1 General Powers. The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors, who may exercise all of the powers of the Corporation except as otherwise provided by law, the Certificate of Incorporation or these By-Laws. In the event of a vacancy in the Board of Directors, the remaining directors, except as otherwise provided by law, may exercise the powers of the full Board of Directors until the vacancy is filled.

3.2 Number, Election and Qualification of Directors. The number of directors which shall constitute the whole Board of Directors shall be determined by resolution of the Board of Directors, but in no event shall be less than three. The directors shall be elected at the annual meeting of stockholders by such stockholders as have the right to vote on such election. The directors need not be stockholders of the Corporation.

3.3 Classes of Directors. The Board of Directors shall be and is divided into three classes: Class I, Class II and Class III. No one class shall have more than one director more than any other class.

3.4 Terms of Office. Except as otherwise provided in the Certificate of Incorporation or these By-Laws, each director shall serve for a term ending on the date of the third annual meeting following the annual meeting at which such director was elected; provided, however, that each initial director in Class I shall serve for a term ending on the date of the Corporation's first annual meeting of stockholders; each initial director in Class II shall serve for a term ending on the date of the Corporation's second annual meeting of stockholders; and each initial director in Class III shall serve for a term ending on the date of the Corporation's third annual meeting of

stockholders; and provided, further, that the term of each director shall be subject to the election and qualification of his or her successor and to his or her earlier death, resignation or removal.

3.5 Removal. The directors of the Corporation may not be removed without cause and may be removed for cause only by the affirmative vote of the holders of at least seventy-five percent (75%) of the shares of the capital stock of the Corporation issued and outstanding and entitled to vote generally in the election of directors cast at a meeting of the stockholders called for that purpose, notwithstanding the fact that a lesser percentage may be specified by law.

3.6 Vacancies. Any vacancy in the Board of Directors, however occurring, including a vacancy resulting from an enlargement of the Board, shall be filled only by vote of a majority of the directors then in office, although less than a quorum, or by a sole remaining director. A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office, and a director chosen to fill a position resulting from an increase in the number of directors shall hold office until the next election of the class for which such director shall have been chosen, subject to the election and qualification of his or her successor and to his or her earlier death, resignation or removal.

3.7 Resignation. Any director may resign at any time upon notice given in writing or by electronic transmission to the Corporation at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

3.8 Regular Meetings. The regular meetings of the Board of Directors may be held without notice at such time and place, either within or without the State of Delaware, as shall be determined from time to time by the Board of Directors; provided, that any director who is absent when such a determination is made shall be given notice of the determination. A regular

meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of stockholders.

3.9 Special Meetings. Special meetings of the Board of Directors may be held at any time and place, within or without the State of Delaware, designated in a call by the Chairman of the Board of Directors, the Chief Executive Officer (or if there is no Chief Executive Officer, the President), two or more directors or by one director in the event that there is only a single director in office.

3.10 Notice of Special Meetings. Notice of any special meeting of the Board of Directors shall be given to each director by the Secretary or by the officer or one of the directors calling the meeting. The notice shall be duly given to each director (i) by giving notice to such director in person or by telephone at least twenty four (24) hours in advance of the meeting, (ii) by sending a telegram, telecopy, or telex, or delivering written notice by hand, to his or her last known business or home address at least twenty four (24) hours in advance of the meeting, or (iii) by mailing written notice to his or her last known business or home address at least seventy two (72) hours in advance of the meeting. A notice or waiver of notice of a special meeting of the Board of Directors need not specify the purposes of the meeting.

3.11 Meetings by Telephone Conference Calls. The Board of Directors or any members of any committee of the Board of Directors designated by the directors may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at such meeting.

3.12 Quorum. A majority of the total number of the whole Board of Directors shall constitute a quorum at all meetings of the Board of Directors. In the event one or more of the



directors shall be disqualified to vote at any meeting, then the required quorum shall be reduced by one for each such director so disqualified; provided, however, that in no case shall less than one-third (1/3) of the number of directors so fixed constitute a quorum. In the absence of a quorum at any such meeting, a majority of the directors present may adjourn the meeting from time to time without further notice, other than announcement at the meeting, until a quorum shall be present.

3.13 Action at Meeting. At any meeting of the Board of Directors at which a quorum is present, the vote of a majority of those present shall be sufficient to take any action, unless a different vote is specified by law, the Certificate of Incorporation or these By-Laws.

3.14 Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee of the Board of Directors may be taken without a meeting, if all members of the Board or committee, as the case may be, consent to the action in writing, and the written consents are filed with the minutes of proceedings of the Board of Directors or committee of the Board of Directors, as applicable.

3.15 Removal. The directors of the Corporation may not be removed without cause and may be removed for cause only by the affirmative vote of the holders of seventy-five percent (75%) of the shares of the capital stock of the Corporation issued and outstanding and entitled to vote generally in the election of directors cast at a meeting of the stockholders called for that purpose.

3.16 Committees. The Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any

meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors and subject to the provisions of the Delaware General Corporation Law, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all papers which may require it. Each such committee shall keep minutes and make such reports as the Board of Directors may from time to time request. Except as the Board of Directors may otherwise determine, any committee may make rules for the conduct of its business, but unless otherwise provided by the directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these By-Laws for the Board of Directors.

3.17 Compensation of Directors. The directors may be paid such compensation for their services and such reimbursement for expenses of attendance at meetings as the Board of Directors may from time to time determine. No such payment shall preclude any director from serving the Corporation or any of its parent or subsidiary corporations in any other capacity and receiving compensation for such service.

#### ARTICLE 4 – OFFICERS

4.1 Enumeration. The officers of the Corporation shall consist of a Chief Executive Officer, a President, a Chief Financial Officer, a Secretary and a Treasurer. The Board of

Directors may appoint other officers with such titles and powers as it may deem appropriate, including, without limitation, one or more Vice Presidents and one or more Controllers.

4.2 Election. The Chief Executive Officer, President, Chief Financial Officer, Secretary and Treasurer shall be elected annually by the Board of Directors at its first meeting following the annual meeting of stockholders. Other officers may be appointed by the Board of Directors at such meeting or at any other meeting.

4.3 Qualification. No officer need be a stockholder of the Corporation. Any two or more offices may be held by the same person.

4.4 Tenure. Except as otherwise provided by law, by the Certificate of Incorporation or by these By-Laws, each officer shall hold office until his or her successor is elected and qualified, unless a different term is specified in the vote choosing or appointing him or her, or until his or her earlier death, resignation or removal.

4.5 Resignation and Removal. Any officer may resign by delivering his or her written resignation to the Corporation at its principal office or to the Chief Executive Officer or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. Any officer may be removed at any time, with or without cause, by vote of a majority of the entire number of directors then in office.

Except as the Board of Directors may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following his or her resignation or removal, or any right to damages on account of such removal, whether his or her compensation be by the month or by the year or otherwise, unless such compensation is expressly provided in a duly authorized written agreement with the Corporation.

4.6 Vacancies. The Board of Directors may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any offices other than those of Chief Executive Officer, President, Secretary and Treasurer. Each such successor shall hold office for the unexpired term of his or her predecessor and until his or her successor is elected and qualified, or until his or her earlier death, resignation or removal.

4.7 Chairman of the Board. The Board of Directors may appoint a Chairman of the Board. If the Board of Directors appoints a Chairman of the Board, he or she shall perform such duties and possess such powers as are assigned to him or her by the Board of Directors.

4.8 Chief Executive Officer. The Chief Executive Officer shall, subject to the direction of the Board of Directors, have general charge and supervision of the business of the Corporation. Unless otherwise provided by the Board of Directors, he or she shall preside at all meetings of the stockholders and, if he or she is a director, at all meetings of the Board of Directors. The Chief Executive Officer shall perform such other duties and possess such other powers as the Board of Directors may from time to time prescribe.

4.9 President. The President shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Chief Executive Officer, the President shall perform the duties of the Chief Executive Officer and when so performing shall have all the powers of and be subject to all the restrictions upon the office of Chief Executive Officer.

4.10 Chief Financial Officer. The Chief Financial Officer shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. The Chief Financial Officer shall have the custody of the corporate funds and securities; shall keep full and accurate all books and accounts of the Corporation as shall be

necessary or desirable in accordance with applicable law or generally accepted accounting principles; shall deposit all monies and other valuable effects in the name and to the credit of the Corporation as may be ordered by the Chairman of the Board or the Board of Directors; shall cause the funds of the Corporation to be disbursed when such disbursements have been duly authorized, taking proper vouchers for such disbursements; and shall render to the Board of Directors, at its regular meeting or when the Board of Directors so requires, an account of the Corporation.

4.11 Vice Presidents. Any Vice President shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the President may from time to time prescribe. The Board of Directors may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other such title.

4.12 Controllers. Any Controller shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or any Vice President may from time to time prescribe.

4.13 Secretary. The Secretary shall perform such duties and possess such powers as the Board of Directors or the Chief Executive Officer may from time to time prescribe. In addition, the Secretary shall perform such duties and have such powers as are incident to the office of the Secretary, including without limitation the duty and power to give notices of all meetings of stockholders and special meetings of the Board of Directors, to attend all meetings of stockholders and the Board of Directors and keep a record of the proceedings, to maintain a stock ledger and prepare lists of stockholders and their addresses as required, to be custodian of corporate records and the corporate seal and to affix and attest to the same on documents.

In the event of the absence, inability or refusal to act of the Secretary at any meeting of stockholders or directors, the person presiding at the meeting shall designate a temporary secretary to keep a record of the meeting.

4.14 Treasurer. The Treasurer shall perform such duties and possess such powers as the Board of Directors, the Chief Executive Officer or the Chief Financial Officer may from time to time prescribe. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of Treasurer, including without limitation the duty and power to keep and be responsible for all funds and securities of the Corporation, to deposit funds of the Corporation in depositories selected in accordance with these By-Laws, to disburse such funds as ordered by the Board of Directors, to make proper accounts of such funds, and to render as required by the Board of Directors statements of all such transactions and of the financial condition of the Corporation. Unless the Board of Directors has designated another officer as Chief Financial Officer, the Treasurer shall be the Chief Financial Officer of the Corporation.

In the event of the absence, inability or refusal to act of the Treasurer, the Board of Directors shall appoint a temporary treasurer, who shall perform the duties and exercise the powers of the Treasurer.

4.15 Other Officers, Assistant Officers and Agents. Officers, assistant officers and agents, if any, other than those whose duties are provided for in these By-laws, shall have such authority and perform such duties as may from time to time be prescribed by resolution of the Board of Directors.

4.16 Salaries. Officers of the Corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors.

## ARTICLE 5 – CAPITAL STOCK

5.1 Certificates of Stock. Every holder of stock of the Corporation shall be entitled to have a certificate, in such form as may be prescribed by law and by the Board of Directors, certifying the number and class of shares owned by him or her in the Corporation. Each such certificate shall be signed by, or in the name of the Corporation by the Chairman of the Board of Directors, the Chief Executive Officer or the President, and the Treasurer or the Secretary of the Corporation. Any or all of the signatures on the certificate may be a facsimile.

Each certificate for shares of stock which are subject to any restriction on transfer pursuant to the Certificate of Incorporation, the By-Laws, applicable securities laws or any agreement among any number of stockholders or among such holders and the Corporation shall have conspicuously noted on the face or back of the certificate either the full text of the restriction or a statement of the existence of such restriction.

5.2 Transfers. Except as otherwise established by rules and regulations adopted by the Board of Directors, and subject to applicable law, shares of stock may be transferred on the books of the Corporation by the surrender to the Corporation or its transfer agent of the certificate representing such shares properly endorsed or accompanied by a written assignment or power of attorney properly executed, and with such proof of authority or the authenticity of signature as the Corporation or its transfer agent may reasonably require. Except as may be otherwise required by law, by the Certificate of Incorporation or by these By-Laws, the Corporation shall be entitled to treat the record holder of stock as shown on its books as the owner of such stock for all purposes, including the payment of dividends and the right to vote with respect to such stock, regardless of any transfer, pledge or other disposition of such stock,

until the shares have been transferred on the books of the Corporation in accordance with the requirements of these By-Laws.

5.3 Lost, Stolen or Destroyed Certificates. The Corporation may issue a new certificate of stock in place of any previously issued certificate alleged to have been lost, stolen, or destroyed, upon such terms and conditions as the Board of Directors may prescribe, including the presentation of reasonable evidence of such loss, theft or destruction and the giving of such indemnity as the Board of Directors may require for the protection of the Corporation or any transfer agent or registrar.

5.4 Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders, or to receive payment of any dividend or other distribution or allotment of any rights or to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may, except as otherwise required by law, fix a record date, which record date shall not precede the date on which the resolution fixing the record date is adopted and which record date shall not be more than sixty (60) nor less than ten (10) days before the date of any meeting of stockholders, nor more than sixty (60) days prior to the time for such other action as hereinbefore described; provided, however, that if no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held, and, for determining stockholders entitled to receive payment of any dividend or other distribution or allotment of rights or to exercise any rights of change, conversion or exchange of stock or for any other purpose, the



record date shall be at the close of business on the day on which the Board of Directors adopts a resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

5.5 Dividends. Subject to limitations contained in the Delaware General Corporation Law, the Certificate of Incorporation and these By-laws, the Board of Directors may declare and pay dividends upon the shares of capital stock of the Corporation, which dividends may be paid either in cash, in property or in shares of the capital stock of the Corporation.

#### ARTICLE 6 – GENERAL PROVISIONS

6.1 Fiscal Year. Except as from time to time otherwise designated by the Board of Directors, the fiscal year of the Corporation shall begin on the first day of January in each year and end on the last day of December in each year.

6.2 Corporate Seal. The corporate seal, if any, shall be in such form as shall be approved by the Board of Directors.

6.3 Form of Notice. Whenever any notice whatsoever is required to be given in writing to any stockholder by law, by the Certificate of Incorporation or by these By-laws, such notice may be given by a form of electronic transmission pursuant to Section 232 of the Delaware General Corporation Law if the stockholder to whom such notice is given has previously consented to the receipt of notice by electronic transmission.

6.4 Waiver of Notice. A written waiver of any notice, signed by a stockholder or director, or waiver by electronic transmission by such person, whether given before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice

required to be given to such person. Neither the business nor the purpose of any meeting need be specified in such a waiver. Attendance at any meeting shall constitute waiver of notice except attendance for the sole purpose of objecting to the timeliness of notice.

6.5 Voting of Securities. Except as the directors may otherwise designate, the Chief Executive Officer or Treasurer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for this Corporation (with or without power of substitution) at, any meeting of stockholders or shareholders of any other corporation or organization, the securities of which may be held by this Corporation.

6.6 Evidence of Authority. A certificate by the Secretary, or a temporary secretary, as to any action taken by the stockholders, directors, a committee or any officer or representative of the Corporation shall, as to all persons who rely on the certificate in good faith, be conclusive evidence of such action.

6.7 Certificate of Incorporation. All references in these By-Laws to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended or restated and in effect from time to time.

6.8 Transactions with Interested Parties. No contract or transaction between the Corporation and one or more of the directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of the directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or a committee of the Board of Directors which authorizes the contract or transaction or solely because his, her or their votes are counted for such purpose, if:

(1) The material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee of the Board of Directors in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum;

(2) The material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders;  
or

(3) The contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee of the Board of Directors, or the stockholders.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

6.9 Severability. Any determination that any provision of these By-Laws is for any reason inapplicable, illegal or ineffective shall not affect or invalidate any other provision of these By-Laws.

6.10 Pronouns. All pronouns used in these By-Laws shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

6.11 Contracts. In addition to the powers otherwise granted to officers pursuant to Article 4 hereof, the Board of Directors may authorize any officer or officers, or any agent or

agents, of the Corporation to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

6.12 Loans. The Corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the Corporation or of its subsidiaries, including any officer or employee who is a Director of the Corporation or its subsidiaries, whenever, in the judgment of the Directors, such loan, guaranty or assistance may reasonably be expected to benefit the Corporation. The loan, guaranty or other assistance may be with or without interest, and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the Corporation. Nothing in this section shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the Corporation at common law or under any statute.

6.13 Inspection of Books and Records. The Board of Directors shall have power from time to time to determine to what extent and at what times and places and under what conditions and regulations the accounts and books of the Corporation, or any of them, shall be open to the inspection of the stockholders; and no stockholder shall have any right to inspect any account or book or document of the Corporation, except as conferred by the laws of the State of Delaware, unless and until authorized so to do by resolution of the Board of Directors or of the stockholders of the Corporation.

6.14 Section Headings. Section headings in these By-laws are for convenience of reference only and shall not be given any substantive effect in limiting or otherwise construing any provision herein.

6.15 Inconsistent Provisions. In the event that any provision of these By-laws is or becomes inconsistent with any provision of the Certificate of Incorporation, the Delaware General Corporation Law or any other applicable law, the provision of these By-laws shall not be given any effect to the extent of such inconsistency but shall otherwise be given full force and effect.

#### ARTICLE 7 – INDEMNIFICATION

7.1 Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or an officer of the Corporation or is or was serving at the request of the Corporation as a director, officer or trustee of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (hereinafter an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer or trustee or in any other capacity while serving as a director, officer or trustee, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith; provided, however, that, except as provided in Section 7.3 of this Article 7 with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such

indemnatee in connection with a proceeding (or part thereof) initiated by such indemnatee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation.

7.2 Right to Advancement of Expenses. In addition to the right to indemnification conferred in Section 7.1 of this Article 7, an indemnatee shall also have the right to be paid by the Corporation the expenses (including attorney's fees) incurred in defending any such proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that, if the Delaware General Corporation Law requires, an advancement of expenses incurred by an indemnatee in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnatee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnatee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnatee is not entitled to be indemnified for such expenses under Section 7.1 or otherwise.

7.3 Right of Indemnatee to Bring Suit. If a claim under Section 7.1 or 7.2 of this Article 7 is not paid in full by the Corporation within sixty (60) days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty (20) days, the indemnatee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnatee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the indemnatee to enforce a right to indemnification hereunder (but not in a suit brought by

the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (ii) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the indemnitee has not met any applicable standard for indemnification set forth in the Delaware General Corporation Law. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article 7 or otherwise shall be on the Corporation.

7.4 Non-Exclusivity of Rights. The rights to indemnification and to the advancement of expenses conferred in this Article 7 shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Corporation's Certificate of Incorporation, By-laws, agreement, vote of stockholders or directors or otherwise.

7.5 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

7.6 Indemnification of Employees and Agents of the Corporation. The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation to the fullest extent of the provisions of this Article with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

7.7 Nature of Rights. The rights conferred upon indemnitees in this Article 7 shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer or trustee and shall inure to the benefit of the indemnitee's heirs, executors and administrators. Any amendment, alteration or repeal of this Article 7 that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit or eliminate any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment or repeal.

#### ARTICLE 8 - AMENDMENTS

8.1 By the Board of Directors. These By-Laws may be altered, amended or repealed or new By-Laws may be adopted by the affirmative vote of a majority of the directors present at any regular or special meeting of the Board of Directors at which a quorum is present.

8.2 By the Stockholders. Notwithstanding any other provision of law, the Certificate of Incorporation or these By-Laws, and notwithstanding the fact that a lesser percentage may be



# EXHIBIT F

:BRADLEY J. THORSON COMPACT 80 S. 8TH STREET, STE. 48

**UNITED STATES PATENT AND TRADEMARK OFFICE**UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
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APRIL 24, 2007

PTAS

**\*500264199A\***BRADLEY J. THORSON  
80 S. 8TH STREET, STE. 4800  
MINNEAPOLIS, MN 55402

\*500264199A\*

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## ASSIGNOR:

ENTEGRIS, INC. (A MINNESOTA  
CORPORATION)

DOC DATE: 08/05/2005

## ASSIGNEE:

EAGLE DE, INC.  
3500 LYMAN BOULEVARD  
CHASKA, MINNESOTA 55318

SERIAL NUMBER: 10722168

FILING DATE: 11/25/2003

PATENT NUMBER:

ISSUE DATE:

TITLE: DOUBLE DIAPHRAGM PRECISION THROTTLING VALVE

SERIAL NUMBER: 09556208

FILING DATE: 04/24/2000

PATENT NUMBER: 6321776

ISSUE DATE: 11/27/2001

BRADLEY J. THORSON COMPANIES 80 S. 8TH STREET, STE. 48

TITLE: DOUBLE DIAPHRAGM PRECISION THROTTLING VALVE

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:BRADLEY J. THORSON COMPAN 80 S. 8TH STREET, STE. 48

**UNITED STATES PATENT AND TRADEMARK OFFICE**UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
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APRIL 24, 2007

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**\*500264218A\***BRADLEY J. THORSON  
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MINNEAPOLIS, MN 55402**\*500264218A\***UNITED STATES PATENT AND TRADEMARK OFFICE  
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TITLE: DOUBLE DIAPHRAGM PRECISION THROTTLING VALVE

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